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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,909	01/26/2004	Valery Chuprin		7797

7590 11/10/2005  
Ilya Zborovsky  
6 Schoolhouse Way  
Dix Hills, NY 11746

EXAMINER

HWU, DAVIS D

ART UNIT PAPER NUMBER

3752

DATE MAILED: 11/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/763,909

Applicant(s)

CHUPRIN, VALERY

Examiner

Davis D. Hwu

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— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. The election/restriction requirement of December 16, 2004 is hereby withdrawn because the requirement was not proper.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 5, 6, 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker.

Walker shows a method and apparatus to stop and extinguish various fires, comprising the steps of erecting substantially vertical walls 20 and 21, and making the wall of a fire-resistant material so that when a fire reaches the walls, it can be stopped and/or extinguished. The method and apparatus of Walker further shows a plurality of supports 127 and 127, the erecting including supporting the walls on the supports as recited in claim 3. Walker also shows applying an anti-fire material on an area located behind the wall. Regarding claim 5, since the method and apparatus of Walker can be used to fight gas and oil fires, the method and device can be used to apply an anti-fire foam since the use of foam to fight oil and gas fires is well known in the fire fighting art.

4. Claims 1-4, 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Farley.

Farley shows a method and apparatus to stop and extinguish various fires, comprising the steps of erecting at least one substantially vertical wall 401, and making the wall of a fire-resistant material so that when a fire reaches the walls, it can be stopped and/or extinguished whereas the method and apparatus further comprises providing the at least one wall of a fire resistant material initially as a roll of fire resistant material in the erecting includes unrolling the roll of a fire resistant material to erect the wall (see Figure 18 and Column 7, lines 23) as recited in claim 4.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker.

The method of bringing vegetation behind the at least one wall to ground and applying the foam into the vegetation would have been an obvious choice of the method of fighting the fire, since the method of cutting down vegetation in the path of a fire is well known in the fire fighting art to take away fuel for the fire and then spraying anti-fire material onto the vegetation to prevent them from catching on fire. Regarding claim 8, the method of forming at least one trench and placing the wall in the trench would also have been an obvious choice of the operator when fighting fires on a hill to prevent the apparatus from rolling.

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7. Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farley in view of Walker.

Farley discloses the instant invention except for applying an anti-fire foam to the area behind the wall. Walker teaches a system for stopping and extinguishing fires comprising at least one substantially vertical wall and nozzles 35 to apply anti-fire materials to the fire. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Farley by providing nozzles to the device as taught by Walker to fight the fires. The use of anti-fire foam to fight fires is well known in the fire fighting art. Regarding claim 14, bringing vegetation behind the at least one wall to ground and applying the foam into the vegetation would have been an obvious choice of the method of fighting the fire, since the method of cutting down vegetation in the path of a fire is well known in the fire fighting art to take away fuel for the fire and then spraying anti-fire material onto the vegetation to prevent them from catching on fire. Regarding claim 15, the method of forming at least one trench and placing the wall in the trench would also have been an obvious choice of the operator when fighting fires on a hill to prevent the apparatus from rolling.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to O'Neil, Elias, Graves, and Dunlevy are pertinent to Applicant's invention.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davis D. Hwu whose telephone number is 571-272-

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4904. The examiner can normally be reached on 8:00-4:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on 571-272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Davis Hwu

  
**DAVIS HWU**  
**PRIMARY EXAMINER**